

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
ENERGY FUTURE HOLDINGS CORP.,	:	Case No. 14-10979-CSS
et al.,	:	Adv. Pro. No.: 15-51239-CSS
	:	BAP No. 16-12
Debtors.	:	
	:	
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DELAWARE TRUST COMPANY, as	:	
FIRST LIEN INDENTURE TRUSTEE,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 16-189-RGA
	:	
MORGAN STANLEY CAPITAL GROUP,	:	
INC.,	:	
	:	
Appellee.	:	

RECOMMENDATION

At Wilmington this **13th** day of **April, 2016**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process. In this appeal, Appellant DTC seeks reversal of the Bankruptcy Court's rulings, order and judgment based on legal arguments, which involve the

interpretation and application of Section 4.1 of the Intercreditor Agreement. Neither Appellees nor Appellant expressed any present interest in mediation.

The parties request a briefing schedule be entered consistent with the application of Rule 8018(a) of the Federal Rules of Bankruptcy Procedure once the record on appeal is complete and the clerk has docketed a notice in accordance with Rule 8010(b)(3) providing that the record has been transmitted or is available electronically.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. Since the parties requested this matter be withdrawn from mandatory mediation, objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 will not be filed.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
UNITED STATES MAGISTRATE JUDGE